

2 September 2005

MEMORANDUM FOR SENATOR WARNER

Dear Senator Warner:

It's hard to believe, but it has been over 30 years since we last served in the U.S. Navy together - - you as Secretary of the Navy and I as your Judge Advocate General. Since then I have had only one or two opportunities to speak with you during your illustrious years as a United States Senator - - and then on matters that were undoubtedly relatively inconsequential, since I, at least, have completely forgotten them.

I seek an opportunity to meet and talk with you now, however, for at least a few brief minutes, on a matter that is of genuine and substantial importance, not only to a substantial group of our former Navy and Marine Corps "shipmates," but to the American public and to our ideal of a fair and honest United States Government. I refer to the matter of the June 1967 Israeli air and surface attack upon the USS LIBERTY (AGTR-5) in the eastern Mediterranean Sea during the "Six-Day War." That attack killed 34 Americans - - 33 U.S. Navy personnel and one American civilian; it wounded an additional 172 American sailors; and it so devastated the \$40,000,000 LIBERTY that she was ultimately sold for a pittance as scrap.

At the time of that attack I was the senior Navy Judge Advocate on the staff of Admiral John Sidney McCain, Jr., CINCUSNAVEUR. Admiral McCain convened a Navy Court of Inquiry to investigate all the circumstances of the attack, and in due course the record of that Court's investigation was sent to me for my legal review - - which was standard Navy practice, and what I was there for. I had the 650-page record for a total of about 18 hours, during 15 of which I was concentrating solely upon it. At the end of that time, after Admiral McCain had learned that I was having problems finding evidence in the record to support some of the Court's findings, but was only about a third of the way through it, the Admiral had the record withdrawn from me, and I had no input into his action upon it.

Not until many years later did I ever see the approving endorsement that Admiral McCain had placed on the Court's record - - on the very day that he withdrew it from me. And not until many years later did I learn, from USS LIBERTY survivors and other competent witnesses, many of the facts of the attack and facts concerning the conduct of the Court of Inquiry.

Senator Warner, in the attached letter, which I joined in signing on 27 July 2005, I have related to the present Secretary of the Navy the facts which convince me - - and which I believe should convince any conscientious and objective official, lawyer or otherwise - - that the Navy Court of Inquiry of 1967 was a near-total farce, and that it could neither then nor now be considered an honest, or a thorough, or a reliable investigation of the major tragedy that was the attack upon the USS LIBERTY.

In the 38 years since the LIBERTY attack, the survivors of that attack have been subjected to unjust treatment in many and diverse ways. Among other things, they have been denied the honor, that should have been theirs, of recognition as prime exemplars of the Navy's historic tradition: "DON'T GIVE UP THE SHIP." By the same token, the American public has during that time been fed a totally erroneous and a dishonest version of the history of that attack.

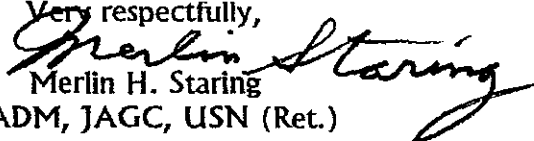
This matter has been raised and has resurfaced now through the filing with the Secretary of the Army, by the USS LIBERTY survivors, of a formal Report of War Crimes committed by the state of Israel on 8 June 1967 through its unprovoked, unjustified, and unlawful attack upon the USS LIBERTY and her complement of 294 American officers and crew. That Report of War Crimes was filed with the Secretary of the Army on 8 June 2005, exactly 38 years after the attack. It is the responsibility of the Secretary of the Army, as the Executive Agent for the Department of Defense in such matters, to supervise the execution of the thorough investigation of such reported incidents - - and it is the responsibility of the Secretary of the Navy to provide for the prompt reporting and investigation of reported incidents committed against members of his department. Finally, it is DOD policy to ensure that all such incidents, where appropriate, be remedied by corrective action.

With the filing of their Report of War Crimes, Senator Warner, the survivors of the USS LIBERTY attack have formally invoked those various responsibilities of the Department and the Secretary of Defense, the Secretary of the Army, and the Secretary of the Navy as summarized briefly above. The official record of the 1967 Navy Court of Inquiry, as now maintained and supplied by the Department of the Navy, quite literally demonstrates on its very face that it fell far, far short of constituting the inquiry "into all the pertinent facts and circumstances leading to and connected with the armed attack; [the] damage resulting therefrom; and [the] deaths of and injuries to naval personnel" as had been directed by its convening authority. In addition, the 5-page approving endorsement that Admiral McCain hastily placed on that record on 18 June 1967 fails even to note that the Court had nowhere nearly fulfilled its directed mission - - and he failed to send the record back for further work to fulfill that mission as it was well within his power to do. Finally, among a number of other respects in which he failed in or abdicated his command responsibilities, the convening authority relied at some points in his endorsement upon incomplete consideration of evidence in the record, and at others purported to reach erroneous, unsubstantiated, or misleading conclusions from the record which it was his duty to have read and considered.

Senator Warner, I think you know me well enough to know that I do not present this matter for your attention lightly, or without having considered the available documents and evidence closely and with a critical eye. I most respectfully ask of you, Sir, that you read our attached Liberty Alliance letter to the Secretary of the Navy, and the two important and revealing documents we have attached to it as Tabs A and B. With the full understanding of the matter that I believe those more detailed documents will give to you as an experienced attorney, and as one with long and impressive Navy credentials and experience at all levels, I earnestly ask that you make your conclusions known to the

Secretary of the Navy and to the Secretary of the Army who now currently have this matter pending before them for consideration in light of their respective responsibilities.

I do have one additional and concluding point that I wish to make with you, Senator, that I would prefer to deliver orally. I hope, Sir, that you will give me that brief opportunity.

Very respectfully,

Merlin H. Staring
RADM, JAGC, USN (Ret.)



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON NAVY YARD
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON DC 20374-5068

IN REPLY REFER TO

5800
10/325
February 24, 2006

Mr. Moe Shafer
Blazer Associates, Inc.
4994 Roswell Road, Suite 33
Marietta, GA 30068

Dear Mr. Shafer:

Thank you for your letter to Secretary Rumsfeld concerning a Report on War Crimes against USS LIBERTY.

The Department of Defense directive to which you refer concerning investigations into incidents such as that involving LIBERTY is dated 9 December 1998 and is prospective in application. However, as you are aware, a Navy Court of Inquiry investigated the facts and circumstances concerning the attack on LIBERTY soon after it occurred in 1967. In his endorsement of the investigation, Admiral McCain found that LIBERTY suffered an unprovoked attack by Israeli air and naval forces in international waters. The Secretary of State communicated to the Government of Israel, "the attack must be condemned as an act of military irresponsibility reflecting reckless disregard for human life." The Government of Israel formally communicated its sincere expression of deep regret and subsequently paid U.S. claims in full for the deaths, injuries, and damages caused in the attack, thus closing the matter between the two governments.

Further investigation with respect to the Report on War Crimes is not warranted, and there are no plans to do so.

We recognize and honor the sacrifice and uncommon bravery demonstrated by you, the officers, and other crewmembers in LIBERTY on that fateful day.

As always, if I can be of any further assistance, please let me know.

Sincerely,

J. E. BAGGETT
Deputy Assistant Judge Advocate
General (International and
Operational Law)



DEPARTMENT OF THE NAVY
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WASHINGTON NAVY YARD
1322 PATTERSON AVENUE SE SUITE 3600
WASHINGTON DC 20374-5066

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COMMITTEE

IN REPLY REFER TO

06 JAN 26 PM 4:03

5890

Ser 01/001

11 Jan 06

The Honorable John Warner
Chairman
Committee on Armed Forces
United States Senate
Washington, DC 20510-6050

Dear Mr. Chairman,

Thank you for your letter of 26 September to Secretary England concerning whether further investigation of the Israeli attack on USS LIBERTY (AGTR 5) is warranted. I am responding on behalf of the Secretary.

Admiral John S. McCain's endorsement of the Navy investigation found that USS LIBERTY (AGTR 5) suffered an unprovoked attack by Israeli air and naval forces in international waters. The Secretary of State communicated to the Government of Israel, "the attack must be condemned as an act of military irresponsibility reflecting reckless disregard for human life." The Government of Israel formally communicated its sincere expression of deep regret and subsequently paid U. S. claims in full for the deaths, injuries and damages caused in the attack. In view of those facts, further investigation is not warranted.

We recognized and honored the sacrifice and uncommon bravery demonstrated by the officers and crew of the USS Liberty (AGTR 5) on that fateful day.

If I can be of any further assistance, please let me know.

Sincerely,

H. H. DRONBERGER
CAPT, JAGC, U. S. Navy
Assistant Judge Advocate General
(Civil Law)



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OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON NAVY YARD
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WASHINGTON DC 20374-5066

IN REPLY REFER TO

5800
10/440
October 31, 2006

The Honorable Thomas Reynolds
Attn: Sarah Lojacono
500 Essjay Road, Suite 260
Williamsville, NY 14221

Dear Mr. Reynolds:

Thank you for your fax of October 26, 2006, to Mr. Robert Wilkie concerning an inquiry from your constituent, Mr. John Hrankowski, about the attack on USS LIBERTY in 1967.

Regarding the aircraft launched to come the assistance of LIBERTY, the Sixth Fleet Commander recalled them after being informed that the Israelis had attacked the ship by mistake. The attack did not continue for another 90 minutes after the recall. The recall was subsequent to the Israeli torpedo boats ceasing the attack upon discovering the mistake and inquiring whether LIBERTY needed assistance.

Destruction of the life rafts prior to their use (along with other topside equipment) was a consequence of the overall attack on the LIBERTY from Israeli aircraft and torpedo boats. The following excerpts of testimony from the Navy's Court of Inquiry provide the circumstances. USS LIBERTY's Commanding Officer, Captain McGonagle, testified that LIBERTY's machine guns opened fire first on the torpedo boats, and that, "As far as the torpedo boats are concerned, I am sure that they felt they were under fire from USS LIBERTY. At this time, they opened fire with their gun mounts and in a matter of seconds, one torpedo was noted crossing astern of the ship at about 25 yards." Lieutenant Painter testified, "At this time, the DC central passed the word to prepare to abandon ship. We then filed out to our life rafts which were no longer with us because they had been strafed and most of them were burned, so we knocked most of them over the side. At this time the torpedo boats, three of them, that had torpedoed us, were laying off, waiting for us to sink, I believe. Anyway, they didn't come near us at this time."

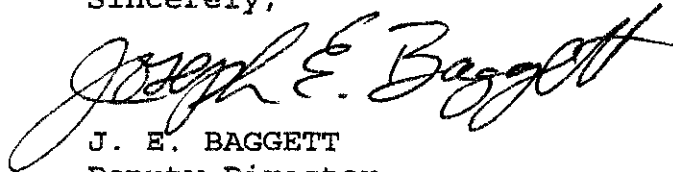
Regarding an investigation, Admiral John S. McCain, Jr., promptly convened a Court of Inquiry, an investigatory body

authorized by federal statute and used for major incidents. The Court of Inquiry investigated the facts and circumstances concerning the attack on USS LIBERTY soon after the event. In his endorsement of the investigation report, Admiral McCain found that LIBERTY suffered an unprovoked attack by Israeli air and naval forces in international waters. The Secretary of State communicated to the Government of Israel, "the attack must be condemned as an act of military irresponsibility reflecting reckless disregard for human life." The Government of Israel formally communicated its sincere expression of deep regret and subsequently paid U.S. claims in full for the deaths, injuries, and damages caused in the attack, thus closing the matter between the two governments. Further investigation is therefore not warranted.

We recognize and honor the sacrifice and uncommon bravery demonstrated by the officers and crew in LIBERTY on that fateful day.

As always, if I can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, reading "Joseph E. Baggett". The signature is written in dark ink and is positioned above the printed name and title.

J. E. BAGGETT
Deputy Director
International and Operational Law Division



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WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO

5890
Ser 15.151.A1/0198
March 16, 2005

The Honorable Rob Simmons
House of Representatives
Washington, DC 20515

Dear Mr. Simmons:

This responds to your March 8, 2005, letter requesting the Navy's position on the findings of the "Independent Commission of Inquiry into the Israel Attack on the USS LIBERTY, the Recall of Military rescue Support Aircraft While the Ship Was Under Attack, and the Subsequent Cover-Up by the United States Government" as introduced during extension remarks by Representative Conyers in the House of Representatives on October 7, 2004. This letter provides background information about the attack on the USS LIBERTY (AGTR-5) and the Navy's investigation.

The attack on USS LIBERTY took place at approximately 1358 hours on June 8, 1967. It occurred during the height of the Six Day War between Israel and the Arab states of Egypt, Syria, and Jordan. The attack was carried out by Israeli aircraft and torpedo boats, resulting in the deaths of 34 U.S. servicemen and injuries to 171 LIBERTY crewmen. The Government of Israel, which had no prior knowledge of LIBERTY's mission, has consistently maintained that the attack was the result of an error induced in part by a misidentification of LIBERTY as the Egyptian ship "EL QUSEIR."

Admiral John S. McCain, Jr., Commander-in-Chief, U.S. Naval Forces, Europe, ordered a Court of Inquiry to investigate the circumstances surrounding the attack. That investigation focused primarily on U.S. military communications problems prior to the attack and the heroic efforts of LIBERTY's crew in damage control during the aftermath of the attack. The Court of Inquiry, which heard testimony from several officers and enlisted men from LIBERTY, including the commanding officer, produced an exhaustive record of proceedings over 650 pages in length.

5890

Ser 15.151.A1/0198

March 16, 2005

The Court of Inquiry was the only United States Government investigation into the attack. The Navy plans no further investigations into the incident.

The Court of Inquiry's record of proceedings was declassified and is available to the public. A copy may be obtained from the Office of the Judge Advocate General (Code 15), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. The requester is required to pay the reproduction costs.

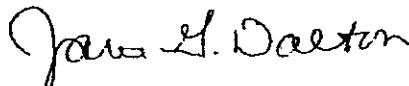
As a result of the incident, the Department of State insisted that Israel take responsibility for the attack. The Government of Israel accepted that responsibility, apologized for the attack, and paid United States Government claims for the deaths and injuries of U.S. personnel, and for damages to the ship.

Servicemen serving on USS LIBERTY during the Israeli attack qualify for the Combat Action Ribbon and the Presidential Unit Citation. Additionally, on August 27, 1991, those members who died as a result of injuries sustained during the attack were officially recognized by the Chief of Naval Personnel as having been "battle casualties."

I assure you that the Navy remembers with gratitude and pride all U.S. Navy personnel, including those of USS LIBERTY, who have so bravely sacrificed their lives in the service of their country.

Please let me know if I can be of further assistance.

Sincerely,



JANE G. DALTON
Captain, JAGC, U.S. Navy
Assistant Judge Advocate General
(Civil Law)



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
INTERNATIONAL AND OPERATIONAL LAW DIVISION
1777 N. KENT STREET
ROSSLYN, VIRGINIA 22209-2194

May 15, 2006

Rear Admiral Clarence A. Hill, Jr.
Rear Admiral Merlin H. Staring
U.S.S. Liberty Alliance
P.O. Box 663
Front Royal, Virginia 22630

Gentlemen,

Thank you for your letter of April 20th, regarding the Secretary of the Army's responsibility in investigating the tragic U.S.S. Liberty incident. I am responding on behalf of the Secretary.

The circumstances of the investigation conducted by the U.S. Navy into the attack on the LIBERTY, and the subsequent action taken by our government, are all too familiar to your organization. Admiral John S. McCain, Jr., Commander-in-Chief, U.S. Naval Forces, Europe, convened a Court of Inquiry with a wide mandate to investigate "all pertinent facts and circumstances leading to and connected with the armed attack" on USS LIBERTY. In his endorsement of the investigation report, Admiral McCain affirmed that "USS LIBERTY suffered an unprovoked attack by Israeli air and naval forces in international waters off the coast of the United Arab Republic." The Secretary of State communicated to the Government of Israel that "the attack must be condemned as an act of military irresponsibility reflecting reckless disregard for human life." Israel apologized and fully paid United States claims for the deaths and injuries as well as damage to USS LIBERTY caused by the attack.

The Secretary of the Army's responsibility with respect to alleged war crimes committed against U.S. personnel requires the Army to ensure there is a system for reporting and investigation of those allegations. Service Secretaries and Combatant Commanders, even under the latest regulations (Department of Defense Directive 2311.01E, published May 9, 2006), are charged with prompt reporting and investigation of alleged war crimes.

It is clear from the records maintained by the Department of the Navy that a prompt investigation was conducted by the Navy and the responsible Combatant Commander. The Court of Inquiry, which heard testimony from several officers and enlisted men from LIBERTY, including the commanding officer, produced an exhaustive record of proceedings over 650 pages in length. The military chain of command made appropriate findings and recommendations that resulted in the cable quoted above. In fact, the U.S. Government concluded that the Israeli government was culpable for the attack; the Government of Israel formally communicated its sincere expression of deep regret and subsequently paid U.S. claims in full for the deaths, injuries, and damages caused in the attack, thus closing the matter between the two governments. Therefore, further investigation by the U.S. military is unwarranted.

The Army recognizes and honors the sacrifice and uncommon bravery demonstrated by the officers and crew from our sister service on the U.S.S. LIBERTY on that fateful day. But no purpose would be served in re-opening an investigation into this tragic event.

If there is any further information I can provide on this matter, you can contact me at the above address. My email address is Richard.Jackson@hqda.army.mil.

Sincerely,



Richard B. Jackson

Special Assistant to the Judge Advocate General
for Law of War Matters



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WASHINGTON NAVY YARD
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IN REPLY REFER TO

22 September 2005

RADM Clarence A. Hill, Jr., USN (Ret.)
P.O. Box 663
Front Royal, VA 22630

Dear Admiral Hill:

Thank you for your letter to Secretary England concerning the Israeli attack on USS LIBERTY. I am responding on behalf of the Secretary.

In his endorsement of the Navy investigation, Admiral McCain found that LIBERTY suffered an unprovoked attack by Israeli air and naval forces in international waters. The U.S. Secretary of State communicated to the Government of Israel, "the attack must be condemned as an act of military irresponsibility reflecting reckless disregard for human life." The Government of Israel formally communicated its sincere expression of deep regret and subsequently paid U.S. claims for the deaths, injuries, and damages caused in the attack.

In view of the facts cited above, I must renew the conclusions of previous Navy correspondents, to wit: there is no purpose to further investigation.

As Captain Dalton noted in her letter of March 16th, we recognize and honor the sacrifice and uncommon bravery demonstrated by the officers and crew in LIBERTY on that fateful day. Although we may disagree on the matter of the Navy's investigation, there can be no disagreement about the heroism of the men on that fine ship.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Neher", is written over a horizontal line.

PATRICK J. NEHER
Captain, Judge Advocate
General's Corps, U.S. Navy
Deputy Assistant Judge Advocate
General (International and
Operational Law)

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Ser 1627/00 00020/00

18 June 1967

FIRST ENDORSEMENT on ltr of RADM Isaac C. KIDD, USN, 111645/1100
of 18 June 1967

From: Commander in Chief, U. S. Naval Forces, Europe

To: Judge Advocate General.

Subj: Court of Inquiry to inquire into the circumstances
surrounding the armed attack on USS LIBERTY (AGTR-5)
on 8 June 1967 (U)

1. Readdressed and forwarded.
2. On 8 June 1967, the USS LIBERTY suffered an unprovoked attack by Israeli air and naval forces in international waters off the coast of the United Arab Republic. The Court of Inquiry, convened by CINCUSNAVEUR to look into the circumstances and prepare findings related to this attack, has completed its deliberations which are forwarded herewith.
3. It is the opinion of the convening authority that USS LIBERTY was operating in international waters in conformance with the most recent guidance received by her provided by competent authority. It is important to note that there were in fact command decisions made by responsible authorities subsequent to receipt by LIBERTY of the guidance under which she was operating. These subsequent decisions and actions, which the ship did not receive for a combination of several reasons, could have resulted, had they been received in timely fashion, in the ship being as much as 100 miles away from the position in which she found herself at 1200Z on 8 June.
4. The circumstances, when viewed in retrospect through the record of proceedings, indicate that any one or combination of the several communications delays and/or non-receipts varied in the reasons therefor from personnel error to technical difficulty, including errors in judgment.
5. Had LIBERTY not been attacked, the probability is high that none of the aforementioned problem areas would have been identified as critical which is usually the case in circumstances of this sort. It is important to keep in mind that decisions subsequent to LIBERTY's initial operational

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tasking were based upon no known new evidence of potential danger to the ship; but were rather based upon factors other than operational in nature. It is the conviction of the convening authority, that, had new hard intelligence been available and been the basis for new decisions governing LIBERTY's movements, follow-on actions taken with specific regard to guaranteeing timely delivery of such critical guidance would have been handled differently. Such was not the case. Therefore, normal formal procedural practices were followed, and the new command decisions were relayed to the ship in routine fashion, i. e. by standard fleet broadcasts rather than by emergency direct communication capabilities which were available--such as the HICOM net.

6. It is the further conviction of the convening authority in regard to the foregoing, that prospective implementors, such as the ship itself, of action directed by higher authority, when the immediacy of action is critical, must be informed of the planned action concurrent with the transmission of action instructions by the higher authority involved. In this respect, [we found LIBERTY's situation being discussed at the highest command levels where decisions were being made and instructions issued without taking concurrent precautions to inform the ship of the planned actions by the same most rapid means of communications available--in this case, telephonic and voice-radio systems.] On the other hand, however, there was apparently absolutely no new intelligence and operational evidence at the time of the aforementioned discussions to dictate utilizing such special and high precedence communications capabilities.

7. In summary on this point, certain remedial measures for future situations are indicated, some of which are within the capabilities of this headquarters. These will be implemented by CINCUSNAVEUR and his subordinates, to include, for example, concurrent paralleling intentions known to CINCUSNAVEUR from higher authority direct to prospective action subordinates immediately upon receipt of the guidance in question. It must be borne in mind, however, that here again, the best professional judgments will dictate on a case by case basis the degree of urgency required. Such was the case in the LIBERTY incident and, nothing in the findings of fact disclosed justifiable rationale for taking emergency measures to get the information of planned OP area changes to the ship, other than the fact of the attack itself. The LIBERTY incident provides a classic example of the devastating effects complete surprise produces.

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8. Further to the foregoing, the convening authority has reviewed the proceedings most carefully to determine whether or not there was any indication received by the ship's embarked capabilities prior to the attack which would have dictated a need for emergency measures. Every piece of available evidence indicates that such was not the case.

9. On the matter of command and control, the convening authority, as Naval subordinate to USCINCEUR was exercising operational control of LIBERTY through his subordinate, Commander, Sixth Fleet. The fact that the precise operational guidance applicable to LIBERTY at the time of the attack had been received from still higher authority, in no way altered the full responsibility for the ship resting on CINCUSNAVEUR himself. There is no question but that CINCUSNAVEUR had the continuing responsibility for monitoring the position of the ship and insuring the ship's relative safety while in assigned areas. Further, there was no evidence available to CINCUSNAVEUR, up to the moment of the attack itself, to indicate the ship was in jeopardy to a degree beyond normal and continuing risks extant in any operational situation proximate to the shores of warring nations.

10. In summary, in this instance as in others throughout recent years, it was the judgment of the Commander in Chief, U. S. Naval Forces, Europe, that the technical research efforts of USS LIBERTY were well worth the calculated risks involved; keeping in mind that proper precautionary measures had already been taken by CINCUSNAVEUR and by his subordinate, COMSIXTHFLT, on 6 June (two days before the attack), both of which directives all concerned assumed were known to USS LIBERTY. The record discloses, however, that while LIBERTY had received the CINCUSNAVEUR guidance to COMSIXTHFLT, LIBERTY had not received COMSIXTHFLT's message of 6 June wherein details for the implementation of this tempering and discretionary guidance had been provided, together with proper provisions for the protection of the ship in the event of an emergency.

11. On the technical and material side, the convening authority noted with great interest the remarkable efficiency of the coordinated Israeli air and surface attack. The efficacy of air-delivered rockets was particularly noteworthy with regard to their penetrating capabilities and devastating accuracy. Preliminary evidence of damage based upon limited available information at this time, indicates long lead time procurements will require

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approximately one year. Major overhaul requirements approximately two to four months. Aggregate dollar costs total some twelve to fourteen million dollars.

12. On the matter of personnel, heroism was the order of the day. The Commanding Officer is being recommended for the Congressional Medal of Honor and the ship for the Presidential Unit Citation.

13. It is the conviction of the convening authority that the possibility is high that the ship would have been lost completely had there not been the highest order of damage control competence on board combined with the fact that the ship had secured from General Quarters for drill only minutes before the attack took place.

14. Visual identification procedures, and techniques require early attention. We, as well as the Israelis, were apparently deficient in our recognition competence, compared to World War II levels of proficiency. Current United States ship profiles are not readily locatable except in such documents as Jane's "Fighting Ships". Where we have active ship configurations susceptible to confusion with other ships of other nations, we should explore immediately improved identification measures such as national colors on vertical and horizontal surfaces using high visual intensity paints, a safeguard not susceptible to being shot down in the opening stages of an action as was the case in the LIBERTY incident. Intense fires on the ship coupled with herculean efforts by the engineer department to increase speed both produced heavy black smoke which compounded the recognition problem facing the attacking forces.

15. The foregoing comments by the convening authority lead to an overall conclusion that the attack was in fact a mistake; that the element of complete surprise without inquiry eliminated any possibility for a timely government to government announcement of the ship's presence had we been asked; that communication shortfalls resulted in delays in delivery of operational traffic which, had they not occurred, might have resulted in the ship being at a safer distance off shore. The lessons learned in these instances are reminiscent in many respects of those learned after the attack on Pearl Harbor as they apply to the need for complete and free exchange of mission and operational information between responsible authorities and fleet units themselves. In the final analysis, it is this same fleet unit that must enjoy timely advice to be effective. No useful purpose is served by complete knowledge and awareness of decisions at high levels without appropriate concurrent actions stemming therefrom at the lowest echelons in the critical chain.

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16. Communications limitations continue with us. Improvements in equipment never seem quite able to fully offset load increases and the ever present personnel error. Where such combine with staffing delays and completely unexpected actions through mistake by another state, the results cannot be other than explosive in international potential.

17. The proceedings and findings of the Court of Inquiry are approved, based upon knowledge available as of 191425Z.

John S. McCain, Jr.
JOHN S. MCCAIN, Jr.

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Liberty Alliance

The Honorable Gordon England
Secretary of the Navy
1000 Navy Pentagon
Washington, DC 20350-1000

July 27, 2005

Subject: United States Government
Investigation of the 8 June 1967
Israeli attack on the USS LIBERTY (AGTR-5)

Dear Mr. Secretary:

I am RADM Clarence A. (Mark) Hill, Jr., USN (Ret.), and I write to you in my capacity as Chairman pro tem of the U.S.S. Liberty Alliance, Inc. I assumed that position after the death in February 2004 of Admiral Thomas H. Moorer, USN, the retired chairman of the Joint Chiefs of Staff. Admiral Moorer was the Founding Chairman of our Liberty Alliance which he had been instrumental in forming in May 2002 as an organization devoted solely to the support of the survivors of the 8 June 1967 Israeli attack on the USS LIBERTY (AGTR-5) and of their organization, The USS LIBERTY Veterans Association. Right up to the time of his death Admiral Moorer had for over 36 years been outspoken in his support of the USS LIBERTY survivors and their efforts to rectify the injustices to which both they and the American public had been subjected through a deliberate manipulation and warping of the recorded history of the event.

For reasons which will become apparent, I have asked RADM Merlin H. Staring, JAGC, USN (Ret.), a former Judge Advocate General of the Navy and the Treasurer of our Liberty Alliance, to join me in preparing this letter and in submitting it for your consideration.

☆☆☆☆
Admiral Thomas H. Moorer, USN
Chairman, Joint Chiefs of Staff
Retired
Founding Chairman

☆☆☆☆
General Ray Davis, USMC
Medal of Honor
General of Marines, Retired
Founding Vice Chairman

☆☆
RADM Clarence A. (Mark) Hill, Jr.
USN (Ret.)
Chairman pro tem

☆☆
RADM Merlin Staring
JAGC, USN (Ret.)
Former Judge Advocate General
Treasurer

☆
BGen Max G. Halliday
USMC (Ret.)
Director

Ambassador James Akins
Director

Captain Richard Kieffer, MD
USN (Ret.), *Director*
U.S.S. Liberty Survivor

Richard Larry Weaver, DAV
Director
U.S.S. Liberty Survivor

M. I. Hakki
Director

Jack Tillar
Director

Liberty Alliance

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As we are sure you are well aware, the U.S. Navy technical research ship USS LIBERTY (AGTR-5) was on 8 June 1967 attacked by Israeli air and naval forces in the Eastern Mediterranean Sea. Thirty-four Americans assigned to the vessel -- 33 U.S. Navy personnel and one civilian U.S. Government employee -- were killed in the attack; 172 Navy personnel were wounded; and the ship was damaged beyond any further use and was accordingly scrapped. On 10 June 1967 Admiral John S. McCain, Jr., USN, Commander in Chief, United States Naval Forces, Europe (CINCUSNAVEUR), headquartered in London, England, appointed a formal Court of Inquiry "to inquire into all the pertinent facts and circumstances leading to and connected with [that] armed attack; damage resulting therefrom; and deaths of and injuries to naval personnel."

We address you now in this matter, Mr. Secretary, for two important reasons, both springing from an official letter that your Department recently addressed to an inquiring Member of Congress under date of 16 March 2005. We attach at TAB A, for your ready reference, a letter of that date which the Office of the Judge Advocate General sent to Congressman Rob Simmons of Connecticut.

Our first reason for addressing you with respect to that letter is in the nature of a fervent thank you. In the Department's letter to the Congressman is the statement, for the record, that "[the] Court of Inquiry [ordered by Admiral John S. McCain, Jr., Commander-in-Chief, U.S. Naval Forces, Europe] was the only United States Government investigation into the attack." (Emphasis supplied.) We are most grateful to the Department of the Navy for this official confirmation of a fact that the USS LIBERTY survivors, and others in their support, have maintained over all of these 38 years since the attack. During those years there have been many published assertions and claims that the attack had already been "investigated" a dozen or more times, by various Congressional or other U.S. Government officials or authorities. We deeply appreciate having that matter laid authoritatively to rest.

Following immediately upon that helpful clarification, however, the letter at TAB A states: "The Navy plans no further investigations into the incident." (Emphasis supplied.) We most respectfully submit, Mr. Secretary, that such a position by the Department of the Navy -- if it is to be construed as a firm and considered determination -- can only be adopted by ignoring a complex of evidence and circumstances that demonstrate the utter inadequacy and unreliability of the investigative proceedings conducted by the Navy Court of Inquiry of June 1967 -- to put the kindest face on the record of those proceedings. If, on the other hand, the statement is intended to indicate only that the Navy has no present plans to reopen the matter -- perhaps leaving open the possibility of further investigative proceedings, by the Navy or Congress or other duly constituted authority -- we most respectfully submit that the Navy, in

consideration of the facts that we shall now enumerate, should not oppose such further investigative proceedings should they be conducted or ordered by the Congress, for example – or by the Secretary of the Army, who now has just such a request under consideration in his capacity as Executive Agent for the Secretary of Defense pursuant to Department of Defense Directive Number 5810-01B of 29 March 2004.

The Court of Inquiry appointed by Admiral McCain on 10 June 1967 was directed to take the sworn testimony of witnesses and to submit a verbatim record of its proceedings, including its findings of fact. It first convened at the London headquarters of the Convening Authority late on 10 June 1967, then proceeded to the Mediterranean Sea where it conducted its proceedings, first aboard USS LIBERTY as she limped under escort toward Malta, then at Malta where the ship was drydocked.

Upon the initial convening of the Court at London Admiral McCain had orally directed that it conduct and complete its proceedings within one week. In its record of proceedings, as a preface to its Findings of Fact, the Court cited, as an “unusual difficulty” that it had experienced in conducting its proceedings, “the necessity [thus imposed] of investigating such a major naval disaster of international significance in an extremely abbreviated time frame.” Pursuant to that patently unusual and unreasonable directive and requirement, however, the Court, after meeting during the three calendar days of 13 to 15 June at Malta [its record presents those Malta sessions as constituting its “Second” and “Third” days], returned to London on 16 June 1967 and on that day there conducted its final “Fourth Day” proceedings. At London, on 16 and 17 June, the Court’s Findings of Fact were formulated and its tape-recorded proceedings were rendered into a written record which, with its documentary exhibits and appendages, constituted a document of over 650 pages.

The official Navy record of the proceedings of that 1967 Court of Inquiry thus reveals that the Court, pursuant to the one-week time limit imposed upon it, actually met during portions of five calendar days – two days of its allotted time having been consumed in its travel between London and the Mediterranean. It is small wonder that the Court fell far short of fulfilling its directed mission of inquiring into “all the pertinent facts and circumstances leading to and connected with” that attack.

The failure of the Court to inquire into, and to record, “all the pertinent facts and circumstances” is both apparent and clear from multiple circumstances of record. We will flag here, preliminarily and briefly, some of the most significant and blatant of those tell-tale indicators:

- (1) The arbitrary imposition of a 7-day time limit within which the Court was required to complete its inquiry into a massively complex event;

- (2) The fact that, in its three days in Malta, it had access to and took testimony from only 14 of the 260 surviving members of LIBERTY'S complement – many of her 172 wounded crewmen, obviously including many who had been at the heart of the action, having already been medevaced to other U.S. Navy vessels and shoreside facilities for medical attention. (Never thereafter were these critically important eyewitnesses officially questioned concerning their observations of or experiences during the attack.)
- (3) Some of the few crewmen whose testimony was in fact recorded included in their sworn testimony factual observations concerning the attack which were eliminated by the Court from its written record or were otherwise subsequently redacted from the Court's record as it is now officially held and acknowledged by the Government;
- (4) Some of the LIBERTY crewmen who did have an opportunity to testify before the Court attempted to respond in full, or to include in or add to their accounts factual observations which would have been clearly relevant to the "pertinent facts and circumstances . . . connected with the armed attack" that the Court had been charged with eliciting – but were stopped and expressly forbidden by the Court to testify further in those areas;
- (5) The President of the Court and the Court's appointed Counsel, toward the conclusion of the last day of their proceedings at Malta on 15 June 1967, discussed the perceived advisability of the Court's proceeding to Israel in an attempt to get relevant evidence from Israeli sources; the President of the Court telephoned Admiral McCain, the Convening Authority, seeking an extension of the Court's deadline to permit such an investigative effort; but any such extension was denied by the Convening Authority and the President was told to "come home with what you have."

Some, or perhaps all, of these investigative deficiencies are directly attributable to the "unusual difficulty" that the Court itself acknowledged at the time that it had experienced in conducting its proceedings – "the necessity of investigating such a major naval disaster of international significance in an extremely abbreviated time frame."

Moving from the hasty proceedings of the Court of Inquiry to the submission and processing of its results – on the afternoon of 17 June 1967 the record of the Court's proceedings was delivered by the Court's appointed Counsel to the senior Navy Judge Advocate General's Corps officer then on the CINCUSNAVEUR staff – then-Captain Merlin H. Staring, JAGC, USN. In

delivering the record the Court's Counsel simply told the CINCUSNAVEUR Staff Judge Advocate that Admiral McCain was sending it to him for his review. The Staff Judge Advocate thus charged with that review -- a normal and anticipated procedure whereby the Convening Authority would have available a legal opinion and recommendations concerning the Inquiry proceeding and its results -- turned immediately to his detailed examination and consideration of the record. He continued that process steadily into the early morning hours of 18 June 1967, then after a four-hour rest break resumed his review at 6:00 AM on 18 June 1967.

Early in the forenoon of 18 June the Court's Counsel, again as an emissary from the Convening Authority, reappeared and inquired of the Staff Judge Advocate concerning the status of his review and when it might be expected to be completed. The Staff Judge Advocate advised that he had by then read only about a third of the record -- that there were many clerical and typographical flaws in the physical record that should be remedied before it was formally forwarded to the high governmental authorities who undoubtedly awaited it -- that, more importantly, the reviewer had not yet been able to find, in the parts of the record that he had so far reviewed, testimony or other evidence to support some of the Court's stated findings -- and that he could not yet estimate when he could complete his review and recommendations but was continuing to devote himself solely to that task.

The Court's Counsel departed with that information, reported it to Admiral McCain and the President of the Court, Rear Admiral Kidd, then returned to the Staff Judge Advocate about 20 minutes later with the message that CINCUSNAVEUR, the Convening Authority, had directed him to come and get the Court's record from the Staff Judge Advocate and bring it back to the Convening Authority. The Staff Judge Advocate accordingly surrendered the record to the emissary exactly as he had received it; he was neither then nor later asked for any of his work or any opinions that he might have formed to that point; and he had no further contact with the Court of Inquiry or its results at any time during the remaining eight years of his active Navy career.

The records ultimately declassified and released by your Department, Mr. Secretary, show that the record of proceedings of the Court of Inquiry, as thus produced, was formally submitted by the President of the Court to Admiral McCain, the Convening Authority, by letter dated 18 June 1967. Your records also show that, on that same 18 June 1967 date, Admiral McCain endorsed the record forward, addressed to the Judge Advocate General of the Navy as required by the Navy's investigative procedures -- the Judge Advocate General being then charged with the responsibility of circulating the investigative record to all cognizant or interested Navy officials and commands and, ultimately, with the permanent custody and safekeeping of the official record. Admiral McCain's endorsement consisted of five typewritten pages of substantive or procedural

comments, concluding with his unqualified approval of the proceedings and findings of the Court of Inquiry "based upon knowledge available as of 191425Z" (emphasis supplied). [Since we will have occasion to refer to a number of provisions of that endorsement, a full copy of it is attached for your convenient reference as TAB B.]

Rear Admiral Kidd, the President of the Court, departed the London CINCUSNAVEUR headquarters on the afternoon or evening of 18 June 1967 en route to Washington, DC, with the thus-endorsed record of the Court of Inquiry for delivery to the Department of the Navy. Whether he did so on 18 June as thus understood, or on 19 June as might be indicated by the "191425Z" date time group which rather illogically concludes Admiral McCain's 18 June endorsement, it is certain that the drafting of that endorsement, and such consideration of the content of the 650-plus-page record as may have underlain it, was all accomplished – presumably by Admiral McCain with or without the assistance of his nonlegal staff (or perhaps Rear Admiral Kidd) – within either about five hours [up to 181425Z June 1967] or about 29 hours [up to 191425Z June 1967].

We would first note that the U.S. Navy commander who appointed the Court of Inquiry directed it "to inquire into all the pertinent facts and circumstances leading to and connected with the armed attack[, the] damage resulting therefrom[, and the] deaths of and injuries to naval personnel." In contrast to the fully warranted and completely justified breadth of that investigative assignment, the recent letter from your Department to the Congress purports to restate – and, in the process, seeks to narrow – both the scope and significance of that Court of Inquiry investigation. Noting simply that the Court had been ordered "to investigate the circumstances surrounding the attack," it told the Congress that the investigation had "focused primarily on U.S. military communications problems prior to the attack" and upon "the heroic efforts of LIBERTY'S crew in damage control during the aftermath of the attack." To the extent that these latter representations may be true, they constitute in themselves an acknowledgment that the 1967 Court of Inquiry fell far short of inquiring into "all the pertinent facts and circumstances leading to and connected with the armed attack," as had been clearly directed by the Convening Authority.

The Court's very first recorded Finding of Fact was to the effect that the attack by Israeli forces upon USS LIBERTY resulted from a mistaken identification of that ship, (thus was not an intentional assault on the part of the Israelis). The Convening Authority, in paragraph 15 of his endorsement, addressed that vital aspect of the matter only briefly, attributing his conclusion that "the attack was in fact a mistake" to his series of preceding "comments," most of which did indeed relate to "U.S. military communications problems prior to the attack." (One exception: His almost-admiring comments in his paragraph 11 concerning the "remarkable efficiency of the coordinated Israeli air and surface attack" and the "particularly noteworthy . . . efficacy of [the Israelis'] air-

delivered rockets" with respect to "their penetrating capabilities and devastating accuracy.")

Only one of the prior comments upon which the Convening Authority thus relied in support of his conclusion that the attack "was in fact a mistake" bore even tangentially upon the possibility of "mistake," versus "intentional attack" -- his paragraph 14, seemingly bemoaning a deterioration of the competence of both the United States and the Israelis in visual identification procedures. In connection with that rather pious observation he professed that the LIBERTY'S national colors had been "shot down in the opening stages of [the] action," taking no account whatsoever of the testimony, in the Court's record, that those colors had been promptly replaced by the ship's larger and even more visible "holiday colors." In addition, he expressly noted that both "intense fires on the ship," ignited in the early stages of the attack -- "coupled with herculean efforts by [LIBERTY'S] engineer department to increase speed . . . produced heavy black smoke which compounded the recognition problem facing the attacking forces." It is far from clear in what manner the USS LIBERTY, or any other United States force, displayed in this event any apparent deficiency "in our recognition (sic) competence" which would prompt such a gratuitous and misleading attempt to assume for our nation a shared responsibility.

Beyond these observations concerning the incomplete, the shallow, and the contrived comments by the Convening Authority in his endorsement on the Court's record, Mr. Secretary -- an endorsement as demonstrably hasty and ill-considered as the Court's proceedings themselves -- there is yet more to demonstrate more specifically that the 1967 Navy Court of Inquiry into the unprovoked attack upon the USS LIBERTY was and is totally inadequate as a basis for an accurate historical record of that tragic event -- and a totally inadequate record of the actions, the merits, and the entitlements of the survivors of that event and of the families and survivors of the 34 Americans who were killed in that event.

At the very outset, in orally ordering that the Court of Inquiry complete and submit its work within one week, the Convening Authority imposed a condition that was totally and blatantly unreasonable in the circumstances. A basically unarmed United States Navy ship had been subjected to a sudden, concerted, and unprovoked attack by unmarked forces of a foreign nation. Thirty-four Americans had been killed in the assault; 172 others had been wounded -- many of them disabled in varying degrees for life; and the ship devastated beyond further use. To require the official investigation of an event of such magnitude and complexity to be completed in one week was not only to invite a superficial, incomplete, and unreliable result -- but to ensure it.

There is still now available, Mr. Secretary, a very substantial volume of live and fully competent testimony -- officially unheard testimony -- to the events of 8

June 1967 and to the widespread aftermath of those events. Over 30 of the Navy and Marine Corps survivors of the Israeli attack are still available -- many of them having overcome or tolerated grievous wounds and having carried (and suffered), for 35 years, graphic memories of the events of 8 June 1967. Those survivors, once they ultimately overcame the fear of threatened consequences that had been drilled into them by the 1967 Court of Inquiry, have now for years sought to be heard -- and they both stand ready and seek now to state their observed truths about the assault on the LIBERTY and its aftermaths.

In addition, there are still available a substantial number of other competent witnesses who, while not among the heroic victims and survivors of the attack, were privy in various ways to relevant June 1967 events. Such additional testimony includes, but is not limited to, the following:

(1) Eye witness accounts of aircraft surveillance, well prior to the Israeli attack on the LIBERTY, with the Israeli Star of David identification on one of those surveillance aircraft plainly visible to members of LIBERTY'S crew.

(2) Evidence that the LIBERTY herself was, except for her special antennas, nothing more than a Victory ship converted for U. S. Navy purposes -- a type which dominated the U. S. Navy's Service and Transport Forces at the time. Her profile, paint, and bow designation were identical to those of a plethora of U.S. Navy ships that had plied the Mediterranean during the 1960's, every day of the year. Based on those characteristics alone, no military pilot of a Mediterranean littoral country could have failed to identify her, prior to the attack, as an American ship -- without even considering all of the other forms of identification she displayed at the time, including particularly, of course, her U.S flag.

(3) Evidence that the communication foul-ups which resulted in LIBERTY'S being some one-hundred miles from where the JCS had ultimately intended her to be -- a major focus of the cursory endorsement placed on the investigative report by the Commander-in-Chief, U S. Naval Forces, Europe -- is somewhat beside the point in view of the subsequent telephonic contact established between the Secretary of Defense and the President, in Washington, with Rear Admiral Lawrence R. Geis, USN, the Commander of Carrier Task Force 60.1 who flew his flag on USS AMERICA (CV-66). Within range to succor LIBERTY, Admiral Geis had authorized AMERICA's Captain, Don Engen, to launch fighter aircraft that could, by their mere presence, have without further bloodshed ended any mistaken-identity claim by the attackers. Ordered by the President to recall the fighter aircraft that had been launched to aid the LIBERTY in response to her distress call, Admiral Geis had no alternative to compliance with that direct order from the Commander-in-Chief. That

order thus ended any chance of alleviating the loss of life and damage to which USS LIBERTY was being subjected.

Although the CINCUSNAVEUR endorsement to the LIBERTY Court of Inquiry may have been stamped "TOP SECRET" for reasons of "State," we do not hesitate to observe here that, had its contents become public knowledge at the time, it would have been greeted with derision and disgust by every officer and sailor in our Fleet, world-wide.

In the long-continued and still continuing attempt by the U. S. Government -- and the Navy -- to keep the true facts of the attack on the USS LIBERTY from general knowledge -- as well as the efforts of its crew to save their ship, which they accomplished without outside assistance -- their rightful place in the annals of the U. S. Navy's historic tradition -- "Don't Give Up The Ship" -- has been denied to them. We submit that it is time -- and there is still time -- to right a great wrong.

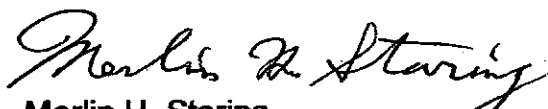
As we have indicated briefly above, Mr. Secretary, The Liberty Veterans Association -- the survivors of the attack -- have on 8 June 2005 filed with the Secretary of the Army, in his capacity as Executive Agent for the Secretary of Defense, a formal and well-documented Report of War Crimes Committed Against U.S. Military Personnel on June 8, 1967, during the Israeli attack on the USS LIBERTY on that date. That documented report seeks to generate the convening, by the Secretary of the Army, of an investigating body to undertake "the complete investigation [of the attack on LIBERTY] that should have been carried out thirty-eight years ago." One of the several War Crimes specifically reported in that submission by the survivors involves the actions of the attacking Israeli forces in firing at and destroying or sinking the humanitarian life rafts that the LIBERTY had launched, or was preparing to launch, in an effort to save some of her wounded personnel. At least one survivor witness before the 1967 Navy Court of Inquiry testified, under oath, specifically on those actions by the Israeli forces -- but that portion of his sworn testimony was omitted from the Court's written record -- or was thereafter deleted from the official record of those proceedings as held and produced (belatedly) by the Department of the Navy as its official custodian.

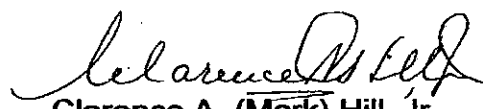
Because of the official interest that the Secretary of the Army thus has in these circumstances -- and because of the relevance of this entire communication to the consideration that he is now giving to this Department of Defense matter -- we are simultaneously delivering a copy of this letter to the Secretary of the Army for his information and consideration as well.

We most respectfully ask, Mr. Secretary, that you carefully consider our foregoing presentation -- that you examine and appraise, objectively, the official records of your Department to which we have referred, and the validity and

accuracy of those records that we have challenged -- and that you now, before it is too utterly late, both consent to and support the efforts of the LIBERTY survivors and their supporters to generate a full, fair, and objective United States Government investigation into the facts and records of the 8 June 1967 attack by Israel upon the USS LIBERTY (AGTR-5).

Most sincerely, and very respectfully,


Merlin H. Staring
Rear Admiral, JAGC, USN (Ret.)


Clarence A. (Mark) Hill, Jr.
Rear Admiral, USN (Ret.)

Copy to:
The Secretary of the Army

U.S.S. Liberty Alliance

☆☆☆☆

Adm. Thomas H. Moorer, USN
Chairman, Joint Chiefs of Staff
Founding Chairman

☆☆☆☆

General Ray Davis, USMC
Medal of Honor
General of Marines
Founding Vice Chairman

☆☆

RADM Clarence A. Hill, Jr.
USN (Ret.)
Chairman pro tem

☆☆

RADM Merlin Staring
JAGC, USN (Ret.)
Former Judge Advocate General
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USMC (Ret.) Director
Former Asst. JAG, USN

Captain Richard Kiepfer, MD
USN (Ret.), Director
U.S.S. Liberty Survivor

Richard Larry Weaver, SN.
USN (Ret.), Director
U.S.S. Liberty Survivor

M. I. Hakki
Director

Jack Tillar
Director

Tito Howard
Director
Executive Director

The Honorable Francis J. Harvey
Secretary of the Army
101 Army Pentagon
Room 3E 560
Washington, DC 20310

April 20, 2006

Subject: Report of War Crimes submitted to the Secretary of the Army by the USS Liberty Veterans Association, Inc., on 8 June 2005

Dear Mr. Secretary:

On 8 June 2005 the USS Liberty Veterans Association, Inc., submitted to you a documented Report of War Crimes Committed Against U. S. Military Personnel on June 8, 1967. That report was submitted to you in your capacity as Executive Agent for the Secretary of Defense under Department of Defense Directive No. 5810.01B of 29 March 2004. It was based upon, and contained a detailed description of, the sudden, savage, unjustified, and prolonged attack made on 8 June 1967, by air and naval forces of the state of Israel, upon the USS LIBERTY (AGTR-5), a U. S. Navy technical research ship then operating peacefully in international waters in the Eastern Mediterranean Sea. The LIBERTY was at that time the most sophisticated and best-equipped intelligence ship in the world. Of a crew of 294 officers and men, including three American civilian government employees, she suffered 34 Americans killed in action and 173 wounded in action. The ship itself was so badly damaged that it never again sailed on an operational mission.

Our organization, the Liberty Alliance, was founded in 2002 by Admiral Thomas H. Moorer, retired Chairman of the Joint Chiefs of Staff, in support of the survivors of that 8 June 1967 attack on the LIBERTY. We – Rear Admiral Clarence A. (Mark) Hill, Jr., USN (Ret.), and Rear Admiral Merlin H. Staring, JAGC, USN (Ret.), Chairman and Treasurer, respectively, of the Liberty Alliance – now write jointly in furtherance of the efforts that Admiral Moorer had

pursued for many years after his retirement, and right up to the time of his death in 2004.

Our Liberty Alliance, on 27 July 2005, sent a detailed letter to the Secretary of the Navy in support of the efforts of the Liberty Veterans Association (the LVA) to obtain a full, fair, and objective U. S. Government investigation of that 1967 Israeli attack on the LIBERTY. When we thus wrote to the Secretary of the Navy, we had only recently learned of a 16 March 2005 admission by the Department of the Navy, in an official letter reply to a Congressional inquiry, that the only investigation that the United States Government had ever made into that attack was a Navy Court of Inquiry which was conducted – and concluded -- within ten days after the attack had occurred. In our letter to the Secretary we presented facts of official record which demonstrated that the investigation conducted by that Navy Court of Inquiry, to put it most charitably, was a hasty, a superficial, an incomplete, and a totally inadequate inquiry into the extremely complex and important matter that had prompted it. In addition, we have within the past two years developed additional evidence, in the form of testimony and an affidavit by the Navy judge advocate counsel to that Court of Inquiry, that the conclusions recorded by the Court were ordered by the President of the United States and his Secretary of Defense and were inconsistent with and were contrary to any evidence the Court of Inquiry had adduced.

On the basis of the foregoing, Mr. Secretary, it was and is our position that reliance by the Department of the Navy and by the United States Government upon that inquiry – for any purpose – is misplaced and unfounded. With its glaring defects and inadequacies, it would not constitute a reliable basis even for decisions by the Navy concerning operational or material matters, for example – the context in which that inquiry, and most inquiries of that sort, are ordered and conducted within the naval service. Far less reliable – or even relevant – would it be with respect to reports of War Crimes – the issues presented by the Liberty Veterans Association in its formal Report of War Crimes submitted to you on 8 June 2005. The War Crimes issues now raised by the LVA had not even been formulated or substantially articulated at the time of the hasty Navy Court of Inquiry in 1967. In fact, among the very few of the LIBERTY survivors who were actually called and permitted to testify before that Court, some were silenced when they attempted to describe events which in retrospect

would have fallen clearly within the War Crimes category; and the testimony of at least one who did enter that area – having witnessed the firing by the Israelis upon life rafts launched or launching to accommodate wounded members of LIBERTY's company – has been found to have been deleted from the Court's original report of its proceedings.

In short, Mr. Secretary, the matters that have been officially submitted to your attention by the Liberty Veterans Association as War Crimes have never been "thoroughly investigated" – to use the terms of your charter under Department of Defense Directives Numbers 5810.01B of March 29, 2004, and 5100.77 of December 9, 1998. They have never been addressed or investigated at all. The fact that the state of Israel may have admitted to the attack upon the LIBERTY after the fact, claiming it to have resulted from a mistaken identification of the ship – or that it ultimately paid some damage claims – is in no way responsive, or even relevant, to the Report of War Crimes – War Crimes which, quite simply, have never been investigated. Those War Crimes have been properly reported now, and they should now be investigated, at long last, with appropriate corrective action to follow in accordance with the system implemented by the DoD Directives cited above.

In July 2005, when we delivered our letter to the Secretary of the Navy, we simultaneously submitted an information copy of it to your office, Mr. Secretary, because we knew that the existence and the adequacy of any prior investigation of the attack on the LIBERTY were matters that had been officially raised to you by the Liberty Veterans Association in their 8 June 2005 Report of War Crimes. As nearly as we have been able to determine, you have not yet responded to or taken any official action with respect to that LVA Report. The matter thus apparently still lies before you for action.

Since the adequacy of the Navy's 1967 Court of Inquiry, as "the only United States Government investigation" into the LIBERTY attack, is an inescapable concern under the responsibilities placed upon you by the Secretary of Defense, we now address and submit our position in the matter directly to you, rather than relying upon our previous indirect submission as an information copy of our 27 July 2005 letter to the Secretary of the Navy. Our position, however, remains exactly as stated in our letter to the

Secretary of the Navy -- a full copy of which is accordingly appended to and incorporated in this letter as Enclosure (1).

To place the matter in its full current context, however, we must advise you that a dismissive reply was made to us, on behalf of the Secretary of the Navy, by a letter dated 22 September 2005 from a subordinate in the Office of the Judge Advocate General of the Navy. We attach a copy of that one-page reply as Enclosure (2). In essence, that reply on behalf of the Secretary of the Navy "renew[s] the conclusions of previous Navy correspondents, to wit: there is no purpose to further investigation." (Emphasis supplied.)

The Department of the Navy, having previously assured the Congress of the United States that the Navy's 1967 Court of Inquiry "was the only United States Government investigation into the attack" on the USS LIBERTY, has thus refused to examine the facts of record which we have laid before them and which reveal that that investigation was grossly and blatantly inadequate to its stated purposes. Not a word of that misdirecting and dismissive "response" attempts to support or to justify or to defend the 1967 Court of Inquiry as the adequate or thorough investigation required by the Department of Defense -- and by the United States Government and the American people -- to be conducted in an important matter of the nature and consequence of the Israeli 1967 attack on the USS LIBERTY. The reason there is no such attempted justification or defense, Mr. Secretary, is clear: No conscientious lawyer -- no naval or military officer of the United States -- and no objective Government official of any profession or qualification -- could seriously spring to the defense of an investigative proceeding so seriously flawed, and so patently inadequate, as the hasty (and dishonest) inquiry into the unprovoked and unlawful attack on the USS LIBERTY.

Rear Admiral Staring, in his position as a signer to this letter, speaks to the latter point from a career background as a Navy Judge Advocate and as a former Judge Advocate General of the Navy. While neither he personally -- nor perhaps any naval officer -- can speak to the investigative standards maintained within your Department of the Army, Mr. Secretary, we are confident that those standards are no less exacting than are those of the Navy. By no stretch of the imagination can that single official investigation into the 1967 Israeli attack on the USS LIBERTY be honestly

characterized, maintained, or defended as a "thorough investigation" meeting the standards of the Secretary's charter as Executive Agent for the Secretary of Defense in War Crimes matters. The position thus currently taken by the Department of the Navy and by (or on behalf of) its Secretary is not and cannot be the final word in this important matter. The Secretary of the Army, in his capacity as Executive Agent for the Secretary of Defense, has had the matter properly and officially presented to him -- and it is now he, and not the Secretary of the Navy, who is charged with ensuring that the matter placed before him has been or is thoroughly investigated, and that appropriate corrective action is taken. America has a right to expect that the Secretary of the Army will not take his responsibilities as lightly as the authorities of our Department of the Navy have taken theirs.

Soon after the Liberty Veterans Association's Report of War Crimes was initially submitted to the Secretary of the Army in June 2005, its receipt was formally acknowledged to the LVA by a letter of 27 June 2005 from the U.S. Army Criminal Investigation Command. That acknowledgment designated a point of contact within the Army Criminal Investigation Command for future communications in the matter. It also stated that the Report of War Crimes had been forwarded by the Army to the Naval Criminal Investigative Service for appropriate action "because the incident described in the report involved a Navy vessel and its personnel." That reference of the matter to the Department of the Navy is understandable from the standpoint of learning, from the Department initially and primarily involved, what investigative measures had been taken, and with what results -- but it did not relieve the Secretary of the Army of his separately assigned responsibilities as Executive Agent for the Secretary of Defense in War Crimes matters. It is still thus the responsibility of the Secretary of the Army to ensure that any report of War Crimes has been or is "thoroughly investigated" by some appropriate and competent authority of the United States Government.

In due course, starting in late August 2005 and authorized by the LVA to do so on its behalf, Rear Admiral Staring personally sought to determine the location of the LVA's Report of War Crimes and the status of its consideration by the Secretary of the Army. Our attempted inquiries to the Army and to the Naval Criminal Investigative Service (NCIS), following the contact chain initiated by the Army's June 2005 acknowledgment letter,

have to this date been unable to establish that the LVA Report of War Crimes has in fact ever been received and accepted by NCIS for action of any sort, as had been professed in the Army's acknowledgment letter of 27 June 2005.

Mr. Secretary, the survivors of the unjustified Israeli attack on the USS LIBERTY had lived with the thoughts, the memories, and the tragic results of that attack for exactly 38 years when they finally made their collective and formal report and petition to you in your capacity as Executive Agent for the Secretary of Defense in war crimes matters. They have now waited for ten additional months with nothing but an initial, pro forma acknowledgment of the receipt of their Report, and with no substantive response or disposition. Although many of the heroic survivors of the initial attack upon the LIBERTY have not survived the nearly four decades since, as recounted at pages 7-8 of Enclosure (1) a substantial number of the attack survivors are still available and competent as witnesses, were they but to have the opportunity to testify – most, for the first time – concerning their observations and tragic experiences of that 1967 date.

We respectfully ask you, Sir, to consider this shameful matter objectively – to examine for yourself, independently, the official record of the Navy's 1967 Court of Inquiry, with its review and disposition, and to consider whether that hasty, superficial, incomplete – even farcical – investigative proceeding would have satisfied you had the event occurred within your Department of the Army. We are confident that it would not – and on that basis we respectfully ask that you institute, now, an investigative proceeding which will extract the true facts of this tragic episode from the large body of competent sources now still available. The survivors of the attack who are still available in substantial and significant numbers, and the survivors of those who died in the attack or have since passed on, deserve and are entitled to an opportunity to record the truth of the matter; and the citizenry of the United States is entitled to know that truth and to have it authoritatively recorded in the annals of our history.

Because of his obvious interest and necessary involvement in this matter, we are simultaneously delivering a copy of this letter to the current Secretary of the Navy. Also, because of his ultimate responsibility in the premises – and because he has been a party to correspondence on the subject

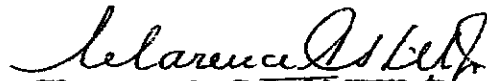
from and to survivors of the LIBERTY attack (see Enclosure (3)) – we are likewise simultaneously delivering a copy of this letter to the Secretary of Defense.

Finally, due both to the importance of his present position and responsibilities and the perspective he can bring personally to the matter by virtue of his prior experience in the naval service, both in uniform and as Secretary of the Navy, a complete copy of this presentation is being delivered to Senator John Warner, Chairman of the United States Senate Committee on Armed Services. Rear Admiral Staring had earlier brought our letter of 27 July 2005 to the Secretary of the Navy to Senator Warner's attention. The Senator has replied that he is aware of the action of the Liberty Veterans Association in filing their formal Report of War Crimes with you, Mr. Secretary, as the Executive Agent for the Department of Defense – and that he views that action by the LVA as an appropriate course of action. We attach a complete copy of that exchange with Senator Warner as Enclosure (4).

Most sincerely, and very respectfully,



Merlin H. Staring
Rear Admiral, JAGC, USN (Ret.)



Clarence A. (Mark) Hill, Jr.
Rear Admiral, USN (Ret.)

Copies to:

Senator John Warner
Chairman, United States Senate
Committee on Armed Services

The Secretary of Defense

The Secretary of the Navy

U.S.S. Liberty Alliance

☆☆☆☆

Adm. Thomas H. Moorer, USN
Chairman, Joint Chiefs of Staff
Founding Chairman

☆☆☆☆

General Ray Davis, USMC
Medal of Honor
General of Marines
Founding Vice Chairman

☆☆

RADM Clarence A. Hill, Jr.
USN (Ret.)
Chairman pro tem

☆☆

RADM Merlin Staring
JAGC, USN (Ret.)
Former Judge Advocate General
Treasurer

Ambassador James Akins
Director

B.GEN Max G. Halliday
USMC (Ret.) Director
Former Asst. JAG, USN

Captain Richard Kiepfer, MD
USN (Ret.), Director
U.S.S. Liberty Survivor

Richard Larry Weaver, SN.
USN (Ret.), Director
U.S.S. Liberty Survivor

M. I. Hakki
Director

Jack Tillar
Director

The Honorable John Warner
Chairman, Committee on Armed Services
United States Senate
Washington, DC 20510-6050

July 22, 2006

Subject: United States Government investigation
of the 8 June 1967 Israeli attack on the
USS LIBERTY (AGTR-5)

Dear Senator Warner:

Our organization, the U. S. S. Liberty Alliance, Inc., was founded in 2002 by Admiral Thomas H. Moorer, retired Chairman of the Joint Chiefs of Staff, in support of the survivors of the sudden, savage, unjustified, and prolonged attack made on 8 June 1967, by air and naval forces of the state of Israel, upon the USS LIBERTY (AGTR-5), a U. S. Navy technical research ship then operating peacefully in international waters in the Eastern Mediterranean Sea. The LIBERTY was at that time the most sophisticated and best-equipped intelligence ship in the world. Of a crew of 294 officers and men, including three American civilian government employees, she suffered 34 Americans killed in action and 173 wounded in action. The ship itself was so badly damaged that it never again sailed on an operational mission.

We – Rear Admiral Clarence A. (Mark) Hill, Jr., USN (Ret.), and Rear Admiral Merlin H. Staring, JAGC, USN (Ret.), Chairman and Treasurer, respectively, of the Liberty Alliance – now write to you jointly in furtherance of those efforts that Admiral Moorer pursued for many years after his retirement, and right up to the time of his death in 2004.

In the 39 years since the LIBERTY attack, the survivors of that attack have been subjected to unjust treatment in many and

diverse ways. Among many other more material things, they have been denied the honor, that should have been theirs, of recognition as prime exemplars of the Navy's historic tradition: "Don't give up the ship!" By the same token, the American public has during that time been fed a totally erroneous and dishonest version of the history of that attack.

This matter has been raised and has resurfaced once again through the filing with the Secretary of the Army, by the USS LIBERTY survivors, of a formal Report of War Crimes committed by the state of Israel on 8 June 1967 through its unprovoked, unjustified, and unlawful attack upon the USS LIBERTY and her complement of 294 American officers and crew. That Report of War Crimes was filed with the Secretary of the Army on 8 June 2005, exactly 38 years after the attack. Under applicable directives of the Department of Defense it is the responsibility of the Secretary of the Army, as the Executive Agent for the Department of Defense in such matters, to supervise the execution of the "thorough investigation" of such reported incidents expressly contemplated by the announced DoD policy – and it is the responsibility of the Secretary of the Navy to provide for the prompt reporting and investigation of reported incidents committed against members of his Department. Finally, it is DoD policy to ensure that all such incidents, where appropriate, be remedied by corrective action. With the filing of their Report of War Crimes, the survivors of the USS LIBERTY attack formally invoked those various responsibilities of the Department and the Secretary of Defense, the Secretary of the Army, and the Secretary of the Navy as summarized briefly above.

In the days immediately after the attack, Admiral John S. McCain, Jr., then the Commander-in-Chief of U. S. Naval Forces Europe, convened for the Navy a formal Court of Inquiry into the matter. That Court of Inquiry conducted and concluded its proceedings in one week, and since that time various United States officials, and others, have cited and relied upon that Navy investigation as dispositive of all questions or inquiries into the matter. By letter of March 16, 2005, the Department of the Navy officially assured the Congress that "that Court of Inquiry was the only United States Government investigation into the incident." We mention this at the outset because, over the years, there have been many allegations that the attack has been repeatedly investigated by various bodies or officials, of the United States Government and otherwise. None of those alleged prior "investigations," however, amounted to a genuine inquiry of any sort into the true facts of the event – much less a "thorough" investigation – and none

took any testimony from the over 240 LIBERTY survivors, many directly involved and seriously wounded, who were not among the mere 17 survivor witnesses who were permitted to give some testimony to the 1967 Navy Court of Inquiry. The survivors are grateful that the Department of the Navy – through its Judge Advocate General who is the official custodian of such records – has set the record straight on the myth of multiple United States Government investigations.

The official record of that 1967 Navy Court of Inquiry, as it is now maintained and supplied by the Department of the Navy, quite literally demonstrates on its very face that it fell far, far short of constituting the inquiry “into all the pertinent facts and circumstances leading to and connected with the armed attack; [the] damage resulting therefrom; and [the] deaths of and injuries to naval personnel” as had been directed by its convening authority. In addition, the 5-page approving endorsement that Admiral McCain hastily placed on that record on 18 June 1967 fails even to note that the Court had nowhere nearly fulfilled its directed mission – and he failed to send the record back to his Court for further work to fulfill that mission as it was well within his power to do. Finally, among a number of other respects in which he failed in or abdicated his command responsibilities, the convening authority relied at some points in his endorsement upon incomplete consideration of evidence in the record, and at others purported to reach erroneous, unsubstantiated, or misleading conclusions from the record which it was his duty to have read and to have considered.

With that background, and with the Navy’s official assurance that its hasty Court of Inquiry proceedings in 1967 constituted the only United States Government investigation into the attack, we, the undersigned, acting for the Liberty Alliance, submitted to the Secretary of the Navy on 27 July 2005 a detailed exposition and analysis of salient aspects of the Government’s official documentary record of the investigation. In doing so we pointed out in some detail the glaring deficiencies and inadequacies of the 1967 Court of Inquiry – though by no means all of them. We asked the Secretary to examine and appraise those records of his Department, and that he consent to and support the efforts of the LIBERTY survivors to attain, at long last, a full, fair, and objective United States Government investigation into the facts and the records of the 8 June 1967 attack by Israel upon the USS LIBERTY.

At that stage of the matter, Senator Warner, on 2 September 2005 Rear Admiral Staring delivered to your staff, for your attention, a fully documented copy of our presentation with a briefing memorandum requesting that, after consideration, you make your conclusions known to the Secretary of the Navy and the Secretary of the Army, both of whom thus then had the matter officially pending before them.

On 22 September 2005, soon after our presentation of the matter for your attention, a subordinate officer in the Office of the Judge Advocate General of the Navy responded to us on behalf of the Secretary of the Navy. His response contained no acknowledgment of or response to the blatant defects to which we had pointed in the Navy's hasty and superficial 1967 Court of Inquiry. He simply "[renewed] the conclusions of previous Navy correspondents, to wit: there is no purpose to further investigation."

While we did not at that time take any further action to bring the response by the Department of the Navy to your attention, Senator Warner, you did acknowledge Rear Admiral Staring's September memorandum on the subject by letter of 22 February 2006. You had forwarded our presentation to the Deputy Secretary of Defense (and former Secretary of the Navy) for review, and you had in response been similarly informed, by an Assistant Judge Advocate General of the Navy, that "further investigation is not warranted." You were so kind as to recognize in your letter the great importance of the matter and to express your respect for our concerns. Noting that the survivors of the attack had filed a formal Report of War Crimes with the Secretary of the Army, as the Executive Agent for the Department of Defense, you stated that you viewed that as an appropriate course of action.

We thank you, Senator Warner, for the objective consideration that you then gave to our presentation of the matter for your attention.

Faced thus with the refusal of the Secretary of the Navy to consider the investigative inadequacies that we had limned for him in our letter of 27 July 2005 – and in view of the fact that the Secretary of the Army had for over 10 months had the survivors' Report of War Crimes before him for consideration, but with no response or known action – we addressed and delivered to him, by letter of 20 April 2006, a similar presentation of the matter for his consideration in his capacity as Executive Agent for the Department of Defense. On 28 April Rear Admiral Staring once again

delivered a complete copy of that new presentation to your staff, with a covering memorandum, for your personal and official information and consideration.

By letter of 15 May 2006 a Special Assistant to the Judge Advocate General of the Army responded, on behalf of the Secretary of the Army, to our presentation of 20 April. Once again this subordinate official of the Department of Defense took no note whatsoever of our documented demonstration of the superficial nature and the total inadequacy of the Navy's hasty 1967 Court of Inquiry. He did acknowledge in passing, however, that the Convening Authority had given the Court "a wide mandate to investigate 'all pertinent facts and circumstances leading to and connected with the armed attack' on USS LIBERTY." That directive was not even close to fulfillment in the 650+ pages of the Court's record to which the Convening Authority gave his hasty and highly vulnerable approval after consideration over a recorded period of little if any more than 24 hours.

It is both significant – and in fact an inadvertent commentary on the climate within the Department of Defense on this subject – that the subordinate in the Office of the Judge Advocate General of the Army who was charged with responding to our presentation to the Secretary of the Army adopted in his letter, verbatim, the following sentence employed by the subordinate in the Office of the Judge Advocate General of the Navy in her March 2005 letter to the Congress:

"The Court of Inquiry which heard testimony from several officers and enlisted men from LIBERTY, including the commanding officer, produced an exhaustive record of proceedings over 650 pages in length."

Neither of those respondents, both presumably extremely competent and experienced lawyers, took note of the fact that only 17 of the Liberty-attack survivors, of a total surviving complement of 260 officers and men – and very, very few of the 173 wounded who would most likely have been at or near the centers of the action – had an opportunity to testify to any extent before the Court. Neither of them, as well, shrank from characterizing the Court's record of its 3 days of evidentiary proceedings as "exhaustive" – which it obviously was not. The Navy's lawyer respondent, in fact, had taken express note of the fact that the Court's "investigation focused primarily on U. S. military communications problems prior to the attack and

the heroic efforts of LIBERTY's crew in damage control during the aftermath of the attack" – leaving unspoken and unaddressed the fact that the Court's "wide mandate" was to investigate "all pertinent facts and circumstances . . . connected with the armed attack."

A full copy of our presentation to the Secretary of the Army had been sent in April to Secretary of Defense Rumsfeld, as it was by the authority of his Department and office that the Secretary of the Army had been tasked as the Executive Agent for the Department of Defense in War Crimes matters. We know of no express action on the part of the Secretary of Defense in this matter. We can only conclude, however, that, having thus been apprised of the pendency of the LIBERTY survivors' War Crimes Report before his appointed Executive Agent, he has at least tacitly concurred in the summary disposition of the matter taken on behalf of the Secretary of the Army on 15 May 2006. There can thus be no question that the decision that "further investigation [in the LIBERTY matter] by the U. S. military is unwarranted" comes from the highest authority of the Department of Defense – and thus from the highest cognizant authority at the operating levels of the Executive Branch of the Government.

At this point, Senator Warner – in order that the documents and correspondence to which we have referred above may be readily available for your independent scrutiny – we attach as Exhibit I the complete presentation that we submitted to the Secretary of the Army on 20 April 2006. That packet contains, as its Enclosures 1 through 4, all of the prior documents to which we have referred. In addition, we now also append, as Exhibit II, a copy of the response that was made to us on 15 May 2006 on behalf of the Secretary of the Army

While the Congress, as the Legislative Branch of our Government, may on some occasions over the years have considered isolated aspects of the Israeli attack on the USS LIBERTY, none of those considerations in any way constituted an investigation of the facts of the event – much less a "thorough investigation" of the episode – as borne out by the Navy's assertion that the 1967 Navy Court of Inquiry was the only official U. S. Government investigation into the event. The LIBERTY affair indeed appears to be unique, as a major and tragic loss of life and limb and property, by a United States military unit, at the hands of a foreign power (or otherwise), which has not been the subject of concerted and serious investigation by the Congress of the United States.

We most earnestly and respectfully submit, Senator Warner, that – the Executive Branch of the Government having abdicated its clear duties in the premises – the Congress should now itself, at long last, conduct such an investigation while a substantial number of the heroic survivors of and witnesses to the event are still available and competent to testify -- and while the family survivors of those lost are still alive to realize and to receive the just treatment and the recognition that has so long been arbitrarily denied to them. That recognition has of course already been denied forever to those shipmates who have already passed on with their festering memories unallayed. Realizing that the institution of such a Congressional investigation would lie with your Committee on Armed Services as a corporate body, rather than with its Chairman personally, we are as a convenience sending a complete copy of this presentation to each Member of your Committee as now constituted.

There is one further and final aspect of the matter that casts a brooding shadow over the two of us as signatories to this letter, Senator Warner. We were on active Navy duty, in our respective specialties, at the time of the tragic attack upon the USS LIBERTY. The disturbing specter that haunts us springs from the realization that, during our own active naval service, our Navy – and our Government – committed the unprecedented sin of deliberately recalling available military forces that had been launched to assist a United States Navy vessel, and her complement of 294 American personnel, who were under vicious and unjustifiable attack by foreign forces – abandoning those virtually defenseless personnel to an hours-long attack ordeal and costing the loss of further lives that could and would most certainly have been saved. The reason for that unprecedented abandonment? As stated by the President of the United States at the time: political or diplomatic reasons – allegedly to avoid embarrassing a nation considered at the time to be an ally. And the ignoble sequelae? A hasty, insincere, apologetic, and totally inadequate “Court of Inquiry” – browbeating the affected sailors with threats that silenced them for years, leaving many haunted by indelible memories that affect them and their lives to this day – or did to the day of the passing of the many who no longer survive.

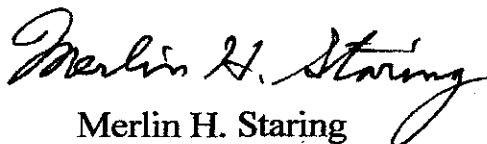
Senator Warner, as you know, both of us who submit this letter served on active duty during the period when you served first as the Under Secretary and then as the Secretary of the Navy. We both supported you loyally in ways that only both you and we know. You had as fine a

reputation, with both the officers and the men of the Fleet, as any Secretary of the Navy has had – because they knew of your loyalty and of your dedication to what the Navy and its great traditions stood for, and why it was so vital that those traditions be upheld from generation to generation.

We are also of course aware of the delicacy of this entire subject from a diplomatic standpoint – particularly now with the heavy involvement of our forces in the Middle East. A continued hiding of the true story from the record, just to protect the political decisions of former officials in the top echelons of the Executive Branch, however, leaves an historical record of a failure on the part of the United States Navy – a failure to live up to the very motto of the service that has been handed down to us by over two centuries of gallant sailors who never failed to support their own, be it against an enemy, or against the sea itself.

We turn to you now, in the Legislative Branch of our Government, since it is clear that no one in the Executive Branch is willing or is permitted to take the action that is needed to set the record straight. A full and proper review by the Congress, in the few remaining years of availability of testimony from competent and credible witnesses, could open the eyes of our nation to an incident that is as worthy an example of courage, for today's sailors, as it was for those who first heard the words "Don't Give Up The Ship" from the lips of the brave Captain James Lawrence himself.

Most sincerely, and very respectfully,



Merlin H. Staring
Rear Admiral, JAGC, USN (Ret.)



Clarence A. (Mark) Hill, Jr.
Rear Admiral, USN (Ret.)

Copies to:

Each Member of the Committee on Armed Services
of the
United States Senate

JOHN MCCAIN
ARIZONA

CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
COMMITTEE ON ARMED SERVICES
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

United States Senate

September 8, 2006

Mr. Michael Trepp
14334 17th Avenue NE
Seattle, WA 98125

Dear Mr. Trepp:

Thank you for contacting me about the 1967 incident involving the USS Liberty. I appreciate your concern.

As you may know, a U.S. Navy Court of Inquiry was convened on June 10, 1967, to look into the circumstances surrounding the armed attack on the USS Liberty. Rear Admiral I. C. Kidd, USN, was President of the Court, and he was assisted in this investigation by Captains Bernard J. Lauff and Bert M. Atkinson.

The responsibility of the Court was to gather information on the attack and forward the data to the Navy Department for further review. As you may know, the Court did not rule on the culpability of the attackers, and the attacking nation did not submit any evidence or testimony on their behalf.

I understand your concern regarding the unprovoked attack on this U.S. vessel. I believe, however, that this matter has been thoroughly reviewed, and that we must now focus our attention on the critical U.S. security issues.

Again, thank you for contacting me.

Sincerely,


John McCain
United States Senator

JM/dch

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(602) 952-0170



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON NAVY YARD
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON DC 20374-5066

IN REPLY REFER TO

22 September 2005

RADM Clarence A. Hill, Jr., USN (Ret.)
P.O. Box 663
Front Royal, VA 22630

Dear Admiral Hill:

Thank you for your letter to Secretary England concerning the Israeli attack on USS LIBERTY. I am responding on behalf of the Secretary.

In his endorsement of the Navy investigation, Admiral McCain found that LIBERTY suffered an unprovoked attack by Israeli air and naval forces in international waters. The U.S. Secretary of State communicated to the Government of Israel, "the attack must be condemned as an act of military irresponsibility reflecting reckless disregard for human life." The Government of Israel formally communicated its sincere expression of deep regret and subsequently paid U.S. claims for the deaths, injuries, and damages caused in the attack.

In view of the facts cited above, I must renew the conclusions of previous Navy correspondents, to wit: there is no purpose to further investigation.

As Captain Dalton noted in her letter of March 16th, we recognize and honor the sacrifice and uncommon bravery demonstrated by the officers and crew in LIBERTY on that fateful day. Although we may disagree on the matter of the Navy's investigation, there can be no disagreement about the heroism of the men on that fine ship.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Neher", is written over a horizontal line.

PATRICK J. NEHER
Captain, Judge Advocate
General's Corps, U.S. Navy
Deputy Assistant Judge Advocate
General (International and
Operational Law)

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United States Senate

COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

February 22, 2006

Rear Admiral M. H. Staring, JAGC, USN (Ret.)
2304 Haddon Place
Heather Hills-Belair
Bowie, MD 20716

Dear Admiral Staring,

Thank you for your Memorandum of September 2, 2005, regarding the Navy's investigation into the Israeli attack on USS LIBERTY (AGTR-5), which occurred on June 8, 1967. I respect your concerns as a leader of the Liberty Alliance and the points you raise about the investigation as a former Judge Advocate General of the Navy and the Staff Judge Advocate for Commander in Chief, U.S. Naval Forces, Europe, at the time of the attack.

I forwarded your letter to the Deputy Secretary of Defense and former Secretary of the Navy, Gordon R. England, for his review. I recently received the attached letter in response from the Assistant Judge Advocate General of the Navy for Civil Law on behalf of Secretary England, which concluded that further investigation is not warranted.

I appreciate that this is a matter of great importance, particularly to the brave men who served in USS LIBERTY, who endured the attack and saved their ship, and to the survivors and families of the wounded and those who died and their supporters. I noted from your Memorandum that they have filed a formal Report of War Crimes with the Secretary of the Army as the Executive Agent for the Department of Defense and view that as an appropriate course of action.

With kind regards, I am

Sincerely,



John Warner
Chairman

Enclosure